

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3195

IN THE MATTER OF:

Served July 8, 1988

Application of CARE ACCESS, INC., )  
for a Certificate of Public )  
Convenience and Necessity to )  
Conduct Special Operations )

Case No. AP-88-07

By application filed March 7, 1988, and amended April 5, 1988, Care Access, Inc. ("Care Access" or "applicant"), seeks a certificate of public convenience and necessity to transport passengers in special operations, over irregular routes, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver. 1/

A public hearing was held on Tuesday, April 26, 1988, pursuant to Order No. 3137, served March 24, 1988, and incorporated herein by reference. One witness testified on applicant's behalf, and four public witnesses testified in support of the application. Although one protest was timely filed, no one appeared at the hearing in opposition to the application.

SUMMARY OF THE EVIDENCE

Ms. Kathleen A. Martin, vice-president of Care Access, presented evidence on behalf of applicant. She and the corporation's president, Ms. Jackie Jenson, are registered nurses with many years experience working with persons who have a variety of disabilities. Ms. Martin also is experienced in managing accounts receivable and payable, record keeping, tax preparation, and purchasing. Initially, Ms. Martin and Ms. Jenson would handle the actual operation of the business, and their responsibilities would include, inter alia, scheduling and driving the vehicles. Both are experienced drivers who are familiar with the United States Department of Transportation safety regulations. Additional staff, preferably having experience as medical technicians, would be hired as needed.

Applicant's proposed operations would be conducted in two vans configured to accommodate four passengers, including two confined to wheelchairs. The vans would be specially equipped with aluminum ramps,

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1/ To the extent that this application could be interpreted to include transportation solely within the Commonwealth of Virginia, the application was dismissed for want of jurisdiction by Commission Order No. 3137.

seat belts, wheelchair-securing systems, and air conditioning. Applicant would acquire a third van if needed. Care Access has selected a mechanic who would be responsible for maintenance and safety of the vehicles including routine oil changes, tune-ups, and tire checks. Applicant's proposed tariff indicates a round-trip weekday charge of \$55 per person for trips of 40 miles or less plus \$1 for each mile in excess of 40 miles. The one-way weekday charge for trips of 20 miles or less would be \$27.50 per person plus \$1 for each mile in excess of 20 miles. Weekend and holiday rates would increase by \$10 for round trips and \$5 for one-way trips, with the \$1 per mile charge for trips in excess of 20 miles (40 miles for round trips) remaining the same. A \$15 cancellation fee would apply to weekday trips. The cancellation fee on weekends and holidays would be \$25. <sup>2/</sup> After acknowledging that the proposed tariff would result in different rates for round-trip and one-way fares of equal mileage, Ms. Martin testified that it was the intention of Care Access to propose a rate structure that would result in identical charges for round trips and one-way trips of equal distances. Ms. Martin consented to filing a revised tariff that would produce the originally intended results. Ms. Martin also stated that in most instances Care Access would require 72-hour advance notice; the witness agreed to include this provision in applicant's tariff as well.

Care Access submitted a balance sheet dated March 3, 1988, which reflects \$10,000 in cash and \$9,410 in fixed assets, no liabilities, and \$19,410 in equity. A projected operating statement for the first 12 months of WMATC operations estimates operating income of \$121,440, and operating expenses of \$96,372, yielding net income of \$25,068 after allowance for depreciation and taxes. Care Access is familiar with the Compact and Commission rules and regulations and intends to comply with them.

Ms. Janice Anderson, chief of program operations and research with the Office of Health Care Financing for the District of Columbia Department of Human Services, testified on its behalf respecting the application. Ms. Anderson's office is responsible for the administration of the District of Columbia Medicaid program. The witness stated that 13 carriers currently provide transportation for participants in the program. The carriers operate under a rotation system which assigns work to a carrier based on its position in line. Medicaid recipients who require regularly-scheduled visits to health care facilities, however, are assigned one carrier for routine

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<sup>2/</sup> Care Access proposes to charge participants in the District of Columbia Medicaid Program \$43 per person for any round trip and \$25 per person for any one-way trip within the Capital Beltway plus \$1 per loaded mile beyond the Capital Beltway (40 miles for round trips).

transportation. Ms. Anderson would be willing to use applicant's services and would have no objection to enrolling Care Access as a Medicaid carrier if applicant obtains appropriate WMATC authority. 3/

Mr. Price Baum supports the application. He is disabled and uses transportation provided by private carriers for medical visits to health care facilities. Mr. Baum is a resident of Silver Spring, MD, and receives treatment about once a month at the National Rehabilitation Hospital, Washington, DC. The witness testified that his medical needs often require the attention of specialists located in Montgomery and Prince George's Counties, MD, and the District of Columbia. In addition to being an outpatient at the National Rehabilitation Center, Mr. Baum is also an employee of the Center. While at the Center, Mr. Baum has noticed that many patients have been unable to obtain transportation for a variety of reasons including unavailability of existing carriers. Mr. Baum, therefore, believes that an additional carrier equipped to serve the requirements of the disabled is needed. Mr. Baum would be willing to use the applicant's service as a private-pay passenger if this application were granted.

Ms. Madra H. Robinson is a District of Columbia resident and a participant in the District of Columbia Medicaid program. Ms. Robinson is disabled and requires frequent visits to health care facilities. Her condition requires that she seek medical attention six to eight times a month and undergo physical therapy three times a week. Ms. Robinson is under the care of private physicians with offices located in Montgomery County, MD, and Washington, DC. The witness often is referred to specialists who may be located anywhere in the Metropolitan District including Prince George's County, MD. Ms. Robinson voiced concern over her treatment by transportation carriers who have not been sensitive to the special needs of disabled persons. The witness views the medical background of Ms. Jenson and Ms. Martin as a distinct advantage. Ms. Robinson would be willing to use the services of Care Access if the authority sought in this application were granted.

The final witness to testify in support of the application was Ms. Mary Jane Owen. Ms. Owen requires special assistance in transportation due to multiple disabilities. The witness is a resident of the District of Columbia and requires transportation to health care facilities in the Metropolitan District several times a week. Her transportation needs include visits to physicians in Montgomery and Prince George's Counties, MD, and Northern Virginia. Ms. Owen has been referred to medical specialists in the past and forsee additional referrals to physicians located throughout the Metropolitan District.

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3/ It is noted that applicant's proposed Medicaid rates are significantly higher than the Medicaid rates on file with the Commission by a number of carriers serving the District of Columbia Medicaid program. The witness' organization is, of course, under no obligation to use the services of applicant.

She believes that a company having personnel with medical training would be able to offer better service than is currently available. It is Ms. Owens' opinion that nurses experienced in working with disabled persons would have the knowledge and sensitivity required to provide effective transportation of the disabled.

#### DISCUSSIONS AND CONCLUSIONS

In determining whether to grant a Certificate of Public Convenience and Necessity we look to Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove it is fit, willing and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity. Based on a review of the record, we find that Care Access is capable of providing the proposed service. Both the president and vice-president of the corporation have experience in working with disabled persons. One of the officers also has knowledge and experience in office management and finance. Both officers have clean driving records. The proposed operations would be conducted in two specially-equipped vehicles, with additional equipment and personnel added if required. The evidence further shows the availability of adequate financing to begin operations and sufficient cash flow to sustain the proposed operations. Applicant evinced willingness to comply with the Compact and Commission's rules and regulations.

We turn now to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. The Commission has relied on the test enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]) when interpreting this provision of the Compact. The Pan-American test consists of three parts as follows:

. . . whether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

A representative from the District of Columbia Medicaid program expressed a willingness to add Care Access to its list of carriers. The remaining witnesses expressed a need for transportation service between health care facilities, on the one hand, and, on the other, points in the Metropolitan District. Care Access produced four public witnesses. The witnesses, other than the representative of the District of Columbia Medicaid program, were private-pay and Medicaid

recipients. Based on the testimony offered at hearing, we find that the evidence establishes a public need for the proposed service. The evidence supports the conclusion that the public purpose found to exist has not been and will not be served as well by existing authorized carriers. Inasmuch as no protestants appeared at hearing, we conclude that applicant's proposed service will not materially affect the operations of existing carriers and will, therefore, be granted.

THEREFORE, IT IS ORDERED:

1. That Care Access, Inc., is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers in special operations, over irregular routes, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less, including the driver, and further restricted against transportation solely within the Commonwealth of Virginia.

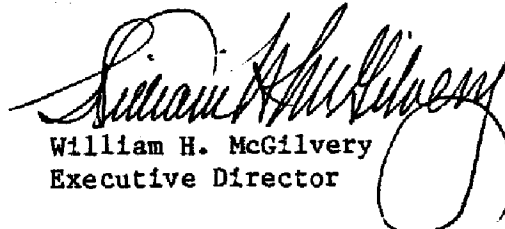
2. That Care Access, Inc., is hereby directed to file with the Commission the following: (a) two copies of its WMATC Tariff No. 1 as revised; (b) an equipment list specifying make, year, model, serial number, seating capacity, license plate number, and jurisdiction for each vehicle to be used in WMATC operations; (c) a certificate of insurance in accordance with Regulation No. 62; and (d) an affidavit of identification of vehicles pursuant to Regulation No. 67 for which purpose WMATC No. 141 is hereby assigned.

3. That unless Care Access, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

4. That upon compliance with the conditions set forth in the preceding paragraphs, a Certificate of Public Convenience will be issued to Care Access, Inc., in the form and as worded in the Appendix to this order.

5. That the application, except to the extent granted herein, is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
William H. McGilvery  
Executive Director

CARE ACCESS, INC.

SUITLAND, MARYLAND

By Order No. 3195 of the Washington Metropolitan Area Transit Commission issued July 8, 1988;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3195;

THEREFORE, IT IS ORDERED that the said carrier be, and it is hereby, granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions and limitations as are now, or may hereafter, be attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, round-trip or one-way, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District.

RESTRICTED (1) to vehicles having a manufacturer's designed seating capacity of 15 persons or less, including the driver, (2) to transportation in vehicles specially equipped with lifts or ramps and mechanical devices for securing wheelchairs in transit, and (3) against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.